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LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE THIRD AND FOURTH REPORTS OF AUSTRALIA

(CCPR/C/AUS/98/3) (CCPR/C/AUS/98/4)

ADOPTED BY THE HUMAN RIGHTS COMMITTEE ON 30 MARCH 2000

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List of issues to be taken up in connection with the consideration of the third and fourth reports of Australia (CCPR/C/AUS/98/3) (CCPR/C/AUS/98/4)

Status of Covenant rights and implementation of Views under the Optional Protocol

1. Please explain whether all the Covenant rights are protected under Australian law. What remedy does a person have in the case of violation of his or her rights under the Covenant? Do all administrative authorities have an obligation to ensure that their decisions are compatible with Australia's obligations under the Covenant?

2. Please indicate what measures have been taken pursuant to the Committee's Views under the Optional Protocol, in particular concerning case A. v. Australia (No. 560/1993, adopted at its fifty-ninth session in April 1997).

3. Recalling the obligation undertaken by States parties pursuant to article 50 of the Covenant to ensure that the provisions of the Covenant shall extend to all parts of federal States without any limitations or exceptions, please inform the Committee about the measures that have been taken to ensure compliance with this provision.

Right of all peoples to self-determination and the rights of persons belonging to minorities (arts. 1 and 27)

4. What is the policy of Australia in relation to the applicability to the indigenous peoples in Australia of the right of self-determination of all peoples?

5. Please comment on the under-representation of Aboriginal persons in civil society, particularly in the areas of education and political participation, and in their situation with respect to health, infant mortality and life expectancy.

6. Please give details on the extent of the phenomenon of removal of indigenous children from their families under past governmental policies. What is the present situation of these persons? What has the inquiry by the President of the Human Rights Equal Opportunity Commission and the Race Discrimination Commissioner, and the Aboriginal and Torres Strait Islander Social Justice Commissioner accomplished to redress this situation? In addition, what has been done to remedy the situation, and has compensation been paid to the victims? (third report, paras. 77-79)

7. Please comment on the extent to which the amendments to the Native Title Amendment Act, which aim at securing the economic interests of farmers and miners, limit the possibilities of Aborigines and Torres Strait Islanders in claiming native title rights and interests to control future developments on their native title lands and waters.

8. Please provide information about the arrangements for preservation of religious, cultural and ancestral sites of indigenous peoples.

Discrimination and equality before the law; fair trial and rights of children (arts. 3, 26, 14 and 24)

9. Does the law in all states and territories of Australia grant protection against discrimination on grounds of sex? What remedies are available in cases of discrimination? Have the recommendations of the Law Reform Commission on Equality before the Law referred to in the third report (para. 217) been implemented?

10. Please give updated statistics on the position of women in society, particularly in political life, the civil service, the labour force and institutions of higher education.

11. Please comment on official reports according to which race was referred to as a determining factor in the imprisonment and the sentencing of juveniles.

12. Is the system of juvenile mandatory sentencing still in effect in some states or territories? Please explain the system, in particular whether it has an inordinate effect on Aboriginals and whether it is compatible with Australia's obligations under articles 14, 24 and 26 of the Covenant.

Right to life and prevention of torture and degrading treatment (arts. 6 and 7)

13. In the light of the large number of deaths of Aboriginal people in police or prison custody, what measures has the State party taken to protect the right to life of Aboriginal detainees and prisoners? What has been the effect of these measures? Please give details on the results of the two summits on the Royal Commission into Aboriginal Deaths in Custody mentioned in paragraphs 75 of the fourth report.

14. How does the law protect the right of a person not to be deported to a country in which he or she could be executed or could face torture or other cruel, inhuman or degrading treatment or punishment?

15. In relation to the fourth report (paras. 57-60), please explain the law and practice regarding corporal punishment of children by parents, guardians and schoolteachers.

Liberty and security of the person; treatment of prisoners and other detainees; freedom of movement and the rights of aliens (arts. 7, 9, 10, 12 and 13)

16. What remedies are available for persons deprived of their liberty who allege that their rights under articles 7 and 10 of the Covenant have been violated?

17. Please explain the law and practice regarding detention of asylum-seekers and of other persons who arrive in Australia without proper travel documents. Please give figures on the number of persons detained and the period for which they have been detained. What remedies are available for asylum-seekers or other persons in "immigration detention" against arbitrary detention? Do the people detained in "immigration detention" have the right to legal advice and are they informed of this right?

18. Please comment on new juvenile justice policies which have resulted in the detention of juveniles in police cells for adults or in juvenile detention centres at localities far away from the families of the detained juveniles?

19. With respect to the reservation made under article 10 and the trend indicated in paragraph 626 of the third report and paragraph 76 of the fourth report please indicate what steps are being taken to withdraw this reservation in all jurisdictions.

Freedom of religion and prohibition of discrimination (arts. 18 and 26)

20. Please indicate the measures taken or envisaged by the State party in order to combat defamation of religions and xenophobic or extremist attitudes.

Dissemination of information about the Covenant (art. 2)

21. Please indicate the steps taken to disseminate information on the submission of the reports and their consideration by the Committee, in particular on the Committee's concluding observations. Furthermore, please provide information on education and training on the Covenant and its Optional Protocol provided to government officials, schoolteachers, judges, lawyers and police officials.